

contrary to the Examiner's assertion, Saito et al. was not published prior to Applicants' invention.

Nevertheless, Applicants explain below the substantial differences between Saito et al. and Applicants' invention, rather than perfecting their claim to priority at this time.

Applicants respectfully traverse the rejections of claims 1-20, as detailed above, for the following reasons.

**Rejection under 35 U.S.C. § 102(b)**

Thus, Applicants respectfully traverse the rejection of claims 1-20 as being anticipated by Saito et al. for the following reasons.

In order to properly anticipate Applicants' claimed invention under 35 U.S.C. § 102(b), the Examiner must show that each and every element of each of the claims in issue is found, either expressly described or under principles of inherency, in a single prior art reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." See M.P.E.P. §2131, page 2100-69, 8<sup>th</sup> Ed., August 2001, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Further, "the elements must be arranged as required by the claim." M.P.E.P. §2131, p. 2100-69.

Claim 1 recites a gas-circulating processing apparatus which comprises, among other things, "a gas supply piping communicated with a processing gas source; ... a gas circulating piping which is configured to combine another portion of the gas that has been discharged from [a] first exhaust mechanism with a processing gas supplied from said gas supply piping; and a gas feeding piping connected with a confluence zone

where the processing gas from said gas supply piping is combined with the gas from said gas circulating piping to form a confluent gas.”

Saito et al. discloses a processor for controlling circulating gas. In the Office Action, the Examiner asserts that Saito et al. “discloses the back-pressure adjusting mechanism and the gas circulating mechanism, as well as, first and second exhaust mechanisms.” Office Action at page 2. However, the Examiner does not contend the reference discloses, and the reference does not disclose, at least “a gas supply piping communicated with a processing gas source; ... a gas circulating piping which is configured to combine another portion of the gas that has been discharged from [a] first exhaust mechanism with a processing gas supplied from said gas supply piping; and a gas feeding piping connected with a confluence zone where the processing gas from said gas supply piping is combined with the gas from said gas circulating piping to form a confluent gas,” as recited in claim 1.

Contrary to the present claimed invention, Saito et al. discloses a primary gas supply and a circulating gas supply that are configured as independent systems. Id. at Abstract. Further, with the arrangement of Saito et al., the primary gas and the circulating gas are not combined until both gases are introduced into a shower head in a processing chamber because the pipe from the primary gas supply and the pipe from the gas-circulating system are connected to the shower head. Therefore, Saito et al. does not disclose at least “a gas supply piping communicated with a processing gas source; ... a gas circulating piping which is configured to combine another portion of the gas that has been discharged from [a] first exhaust mechanism with a processing gas supplied from said gas supply piping; and a gas feeding piping connected with a

confluence zone where the processing gas from said gas supply piping is combined with the gas from said gas circulating piping to form a confluent gas," as recited in claim 1.

Moreover, claim 1 further recites, among other things, "a gas feeding piping ... having a larger inner diameter than that of said gas supply piping in the vicinity of said confluence zone." Saito et al. fails to disclose this element of claim 1 as well.

Because Saito et al. does not disclose each and every element of claim 1, the rejection thereof under 35 U.S.C. § 102(b) is improper. Accordingly, Applicants respectfully request the Examiner to withdraw the rejection of claim 1 under 35 U.S.C. § 102(b) and the claim allowed. Claims 2-6 are also allowable at least in view of their dependency from claim 1.

Furthermore, in the Office Action, the Examiner has failed to address any of the elements of claims 2-6, which depend from claim 1. In view of the failure to address any of these claims, Applicants respectfully request the Examiner to examine these claims and, if the Examiner maintains the rejection of these claims, any subsequent Office Action be made **non-final** and Applicants be afforded an opportunity to address the rejections in the next response.

Independent claims 7 and 10, although different in scope, include recitations similar to allowable claim 1. For at least the reasons mentioned above regarding claim 1, the rejection of claims 7 and 10 under 35 U.S.C. § 102(b) is improper. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claims 7 and 10 under 35 U.S.C. § 102(b) and allow the claims. Claims 8-9 and 11-14 are also allowable at least in view of their dependency from one of claims 7 and 10, respectively.

Further, the Examiner has failed to address any of the elements of the dependent claims 8-9 and 11-14. Applicants respectfully request the Examiner to examine these claims and, if the Examiner maintains the rejection of these claims, any subsequent Office Action be made **non-final** and Applicants be afforded an opportunity to address the rejections in the next communication with the Office.

Independent claim 15 recites a gas-circulating processing apparatus which comprises, among other things, "a first heater heating at least part of a circulating route extending from said processing chamber through said first exhaust mechanism and said gas circulating piping to said processing chamber."

Neither does the Examiner contend that Saito et al. discloses, nor does the reference disclose, at least the above-quoted element of claim 15. Because Saito et al. fails to disclose each and every element of claim 15, the rejection thereof under 35 U.S.C. § 102(b) is improper. Accordingly, Applicants respectfully request the Examiner to withdraw the rejection of claim 15 under 35 U.S.C. § 102(b) and allow the claim. Claims 16-20 are also allowable at least in view of their dependency from allowable claim 15.

Further, the Examiner has failed to address any of the elements of claims 16-20. In view of this failure, Applicants respectfully request the Examiner to examine these claims and, if the Examiner maintains the rejection of these claims, any subsequent Office Action be made **non-final** and Applicants be afforded an opportunity to address the rejections in the next response.

**Conclusion**

In view of the foregoing remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims 1-20.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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**Attachment:** Copy of Abstract of Japanese Patent Application No. 2001-185544